



Republican Policy Committee

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President Rated On Priorities of Conference He Hosted One Year Ago **Studies Show Clinton Administration** **Continues to Oppose Small Business' Goals**

"Far from being a friend of small business, the President appears to have made a concerted effort to oppose the implementation of the small business agenda by threatening to veto legislation when it comes up in Congress, vetoing legislation that lands on his desk, and failing to implement the legislation he signs into law."

Senator Kit Bond (R-MO), Chairman,
U.S. Senate Small Business Committee, June 5, 1996

The Clinton Administration is doing it again — publicly taking credit for job growth, while in fact continuing the Big-Government agenda that stifles it. This week, Senator Bond and several of his colleagues rated the President against some of the top priorities of the 1995 White Conference of Small Business — which took place one year ago — and awarded him a grade of "D-minus." [See Appendix 1 for the report card and an explanation of each grade.] Meanwhile, the House Small Business Committee's report issued this week shows that the Clinton Administration has actively or passively opposed 22 of the Small Business Conferences's top 26 recommendations.

These are not partisan policies being forced on a reluctant President: these are the priorities voted upon by the 2,000 small businessmen and businesswomen across the nation who came to a conference at the White House at the invitation of the President in June of 1995.

Small businesses create two out of every three new jobs in the U.S. economy, and so reducing their regulatory burden — especially when benefits are hard to justify — should be a bipartisan goal. One recent private-sector estimate shows small businesses spend about eight hours every week — that's one full workday — complying with federal and state regulations. For a sole proprietorship especially, this is a heavy burden.

Clinton Opposes in Whole or in Part 85 Percent of Small Business' Priorities

One year ago, the White House invited 2,000 delegates from across the nation to its Conference on Small Business to identify the top priorities for small business. Of the top 26 recommendations made by the delegates, the Clinton Administration has wholly or partly

opposed 22. (The Administration may or may not support two others, both contained in the recently passed amendments to the Regulatory Flexibility Act, PL 104-121, but it is too soon to determine how effectively the President will implement that law.) The President has vetoed 10 legislative provisions implementing these recommendations; opposed congressional action on 4 other recommendations; and, of those recommendations that Federal agencies have authority to implement, failed to implement 5 of those recommendations and only partially implemented 3. [See Appendix 2, taken from "What a Difference a Year Makes," issued by the House Committee on Small Business, June 4, 1996.]

Example: Administration Essentially Ignoring the Paperwork Reduction Act

A measure of this administration's sincerity toward reducing the regulatory burden on small businesses can be derived from an examination of the past nine months' experience with implementation of the Paperwork Reduction Act of 1995 (PL 104-13). That act, which passed the Senate unanimously on April 6, 1995, and became law May 22, 1995, requires the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) to set a goal of at least a 10-percent reduction of the paperwork burden during both fiscal year 1996 and in fiscal year 1997, (and 5-percent each year thereafter) in the government-imposed paperwork burden.

According to a study released by the General Accounting Office during testimony before the Senate Committee on Small Business on June 5, 1996, during fiscal year 1996, the Clinton Administration will achieve at most a 1-percent, rather than a 10-percent, reduction in government paperwork.

Moreover, this 1-percent reduction will be from an artificially high baseline. The law requires the Administration to use September 30, 1995, as the date for its baseline, but the number of hours burden was elevated by more than an 8-percent increase from the one-month period before the effective date of the act when agencies were rushing regulations through to beat the new law's effective date.

The Environmental Protection Agency and the Occupational Safety and Health Administration (OSHA), were — not surprisingly — the most zealous in their avoidance of real burden reduction. According to GAO, EPA increased its entire paperwork burden on the public more than 25 percent (an additional 21 million hours) during the month of September 1995 alone, and OSHA increased its requirements by a whopping 13,866 percent (from 1.5 million hours to about 208 million hours) between June and September 1995. Although a large portion of the EPA and OSHA increases reflect accounting changes (that is, counting information that agencies require the public to give to third parties), the fact remains that both agencies will start from vastly higher baselines before ever making any real paperwork reductions.

EPA's Record: A 25-Percent Cut or No Cut At All?

The EPA paperwork burden increases are particularly noteworthy because EPA Administrator Browner promised (in March 1996), and as the President himself stated in a speech on June 4, 1996, "We're working on cutting the total compliance time the EPA takes

out of the private sector by 25 percent [from January 1, 1996, levels]. And we're on track to make it by the end of this year."

However, GAO released an estimate immediately after the EPA Administrator's March promise, stating that GAO's projections showed EPA increasing its baseline 44 percent by September 30, 1996. So, EPA re-calculated its January 1, 1996, baseline from 81 million hours-per-year to about 101 million hours-per-year, and gave itself until January 1, 1997 to complete the 25-percent reduction. Nevertheless, in testimony on June 5, GAO stated that factoring in all the new burdens being planned by EPA for this year — and even using EPA's own overly generous estimates of burden reductions — *EPA's paperwork compliance burden at the end of this year will be as high as it was on January 1, 1996.*

Clinton Exempts IRS From Paperwork Reduction Act

Finally, in clear violation of the spirit of the Paperwork Reduction Act of 1995, the Clinton Administration has already exempted (by OMB rule) the Internal Revenue Service from compliance with the act. GAO's June 5 report states that since 1989, "IRS's paperwork burden has accounted for more than three-quarters of the government-wide total." During Senator Bond's June 5 press conference, Senator Coverdell said, "this exemption was made four months after the passage of the act, in a stealth form that has left the Congress uninformed until yesterday. Well, no wonder we find a cynical small business constituency."

More Burdens Still to Come: An Example of "Back-Door Regulations"

Further evidence that the Clinton Administration is continuing Big-Government-as-usual can be found in little-publicized "guidances" being promulgated by OSHA. For example, on April 5, 1996, OSHA issued "draft guidelines," called "Guidelines for Workplace Violence Prevention Programs for Night Retail Establishments." The draft was not published in the *Federal Register*, but was made available for "stakeholder" comments by June 30, 1996.

Although OSHA asserts that the "guidelines are not a new standard or regulation," it notes that "employers can be cited for violating the General Duty Clause [section 5(a) of the OSH Act] if there is a recognized hazard of workplace violence in their establishment and they do nothing to prevent or abate it." Moreover, adds OSHA slyly, "OSHA will not cite employers who have effectively implemented these guidelines." One national retailer, a large hamburger chain, estimates that in order to avoid fines for ignoring these guidelines, small and large retail establishments will have to spend more than \$70,000 per facility the first year, with almost \$7,000 in new costs each succeeding year. Whether this estimate is close to actual costs or not, it is indisputable that such back-door regulatory burdens on small businesses fly in the face of the clear intent of the Paperwork Reduction Act of 1995.

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Appendix 1.

President Bill Clinton

Report Card

on the Small Business Agenda

SMALL BUSINESS AGENDA	GRADE
Balanced Budget	F
Regulatory Flexibility Act	INCOMPLETE
Regulatory Reform	
Paperwork Reduction	
OSHA Reform	F
Product Liability	F
Superfund Reform	D
Property Rights	D
Independent Contractor	C
Estate Tax Reform	F
Health Insurance for the Self-Employed	F
Capital Gains	F
Employer-employee Cooperation (TEAM Act)	D
Davis Bacon Repeal	D
Increased Expensing	F
OVERALL GPA	D-

Superfund Reform	D	The President has threatened to veto legislation (S.1285) to repeal retroactive Superfund liability, make cleanup decisions on the basis of more realistic considerations of future land use, more realistic risk assessments, sound science and cost-benefit analysis, and eliminate lender and fiduciary liability.
Property Rights	D	The President has threatened to veto legislation (S.605) that would establish a clear statutory duty for government agencies to provide compensation for regulatory takings and would make procedural reforms to make it easier for small businesses to recover damages for constitutionally protected takings.
Independent Contractor	C	The President has yet to take a position on S.1610, The Independent Contractor Tax Simplification Act of 1996, introduced by Senators Bond and Nickles, which sets out a short list of simple, clear and objective standards for determining who is an employee and who is an independent contractor. The bill provides much-needed relief from the ambiguity in the current law which has made some small businesses reluctant to hire independent contractors and has stifled business expansion.
Estate Tax Reform	F	The President vetoed legislation, included in the Balanced Budget Act, that would significantly reduce the estate tax when a family-owned business passes from one generation to the next.
Health Insurance for the Self-Employed	F	The President vetoed legislation, included in the Balanced Budget Act, that would increase the deduction for health insurance costs of the self-employed.
Capital Gains	F	The President vetoed legislation, included in the Balanced Budget Act, to reduce both the corporate and individual capital gains rate and to provide for a targeted incentive for investments in small growth companies.
Employer-employee Cooperation (TEAM Act)	D	The President has threatened to veto legislation (H.R.743/S.295) that would amend labor laws to permit managers and employees to work together to resolve workplace issues. The President called the TEAM Act, which allows employers to establish teams or committees of managers and employees to discuss issues such as productivity, quality, and safety, a "poison pill."
Davis Bacon Repeal	D	The President has threatened to veto legislation (S.141) to repeal the 1931 Davis-Bacon Act. The Act makes it difficult for many small businesses to participate in federal contracts. Repealing the Act would save taxpayers an estimated \$2.6 billion over the next 4 years.
Increased Expensing	F	The President vetoed legislation, included in the Balanced Budget Act, to phase-up the expensing provision each year for the next seven years. As a result, small business has unnecessarily been deprived of the improved cash flow and the opportunity for expansion that this change would have provided.

Each of these issues were part of the final recommendations of the 1995 White House Conference on Small Business.

**President Bill Clinton
Report Card
On the Small Business Agenda**

<u>Issue</u>	<u>Grade</u>	<u>Explanation</u>
Balanced Budget	F	President Clinton vetoed the Balanced Budget Act (H.R.2491) on December 6th. Last February, the President released his FY 1997 budget which allows spending to grow from \$1.539 trillion in 1995 to \$1.905 in 2000, and only achieves a balanced budget by using a trigger mechanism to impose extreme, automatic cuts in the out years. Congress has already rejected the trigger mechanism as a budgetary gimmick.
Regulatory Flexibility Act	(Inc.)	This grade has potential to be a good one, but serious questions remain unanswered at this point. The President signed the Small Business Regulatory Enforcement Fairness Act (S.942), introduced by Senator Bond, providing judicial review for the Regulatory Flexibility Act. Small business relief under this new law depends in large part on how the Administration handles implementation of the Act. The SBA's Chief Counsel for Advocacy has shown little interest in aggressive support of small business positions on proposed federal rules.
Regulatory Reform	F	The President has threatened to veto legislation (S.343) to require risk assessments and cost-benefit analysis of new regulations and require agencies to periodically review old regulations. The President also vetoed regulatory reform in late 1995 as a part of legislation to increase the debt ceiling (H.R.2586).
Paperwork Reduction	D	The President signed the Paperwork Reduction Act (S.244), but Administration has no plans to actually meet 10% reduction goal in 1996 and the overall paperwork burden will stay essentially unchanged at around 7 billion hours. According to GAO, EPA's promise of a 25% reduction in paperwork in 1996 actually turns out to be a mere 1% reduction.
OSHA Reform	F	The President has threatened to veto OSHA reform legislation. The Senate legislation (S.1423) provides for voluntary compliance assistance to small businesses, exempts businesses with effective safety and health programs or certifications from third party inspectors from routine inspections, and allows warnings instead of citations for violations with no impact on worker safety.
Product Liability	F	The President vetoed product liability reform legislation (H.R.956/S.565), siding with the trial lawyers over the bipartisan majority in both Houses of Congress. The legislation set uniform limitation statutes, replaced joint and several liability with proportional liability and placed a limit on the amount of punitive damage awards that may be assessed against small businesses.

Appendix 2.

Summary of the 1995 White House Conference on Small Business Recommendations

1995 White House Small Business Conference Priorities (Priorities defined in order of highest vote count)

Clinton Administration Action to Date

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|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| 1. Definition of an Independent Contractor (Taxation). | Harsher regulation being pursued. |
| 2. Meals and Entertainment Deduction (Taxation). | Being partially implemented. |
| 3. Regulatory Flexibility Act (Regulation and Paperwork). | Signed, but not yet implemented. |
| 4. Estate and Gift Taxes (Taxation). | President Clinton vetoed, 12/6/95. |
| 5/6. Health-Care Reform (Human Capital). | President Clinton vetoed, 12/6/95. |
| 5/6. Superfund Reform (Environmental Policy). | President opposes legislation. |
| 7. Pension Reform (Human Capital). | President Clinton vetoed, 12/6/95. |
| 8. Intellectual Property Rights (Tech. and Information Revolution). | President implementing. |
| 9. Cost-Benefit Analysis of Environmental Regulations (Environmental Policy). | President opposes legislation. |
| 10. Tort Reform (Regulation and Paperwork). | President Clinton vetoed, 5/2/96. |
| 11. Export Assistance (International Trade). | President implementing. |
| 12. Regulatory Compliance (Regulation and Paperwork). | Signed, not yet implemented. |
| 13. Investment Initiatives for High-Tech Firms (Technology and the Information Revolution). | President Clinton vetoed, 12/6/95. |
| 14. Government and Non-Profit Competition (Procurement). | Being partially implemented. |
| 15. Health-Care Deduction for the Self-Employed (Human Capital). | President Clinton vetoed, 12/6/95, stronger version of the legislative change. |
| 16. Pension Investment in Small Business (Capital Formation). | Not being implemented. |
| 7. Banking-Industry Regulation Reform (Capital Formation). | Not being implemented. |
| xx Equity for Small Business (Taxation). | President Clinton vetoed, 12/6/95. |

19. The Future of the Small Business Administration (Unclassified).	Being partially implemented.
20. Home-Office Deduction (Community Development).	President Clinton vetoed, 12/6/95.
21. Export Financing (International Trade).	President Clinton vetoed, 12/6/95.
22. Small-Business Property Rights and Takings (Environmental Policy).	President opposes legislation.
23. Intellectual Property Protection (International Trade).	Not being implemented.
24. Small Business Capital-Gains Tax Treatment (Taxation).	President Clinton vetoed, 12/6/95.
25/26. Davis-Bacon and Service Contract Acts (Procurement).	President opposes legislation.
25/26. Regulatory and Paperwork Reduction (Regulation and Paperwork).	Not being implemented.

Source: This information was developed from "What a Difference a Year Makes," prepared by the majority staff, House Committee on Small Business, June 4, 1996.

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